

[REDACTED]

13 May 2022

Our Ref: FOIR 053 022

Re: Decision to refuse access to records

Dear [REDACTED]

I refer to your request made under the Freedom of Information Act 2014, which was received on 13 April, for records held by the Health Information and Quality Authority. Your request sought:

I wish to receive every submission made to HIQA on the "public consultation on 'Draft recommendations on a consent model for the collection, use and sharing of health information in Ireland'"

I, Kevin O'Carroll, Standards and Technology Manager, have now made a final decision to refuse your request. While the decision is to refuse access to the records at this time, I will be happy to administratively provide the records to you following completion of the deliberative process. Therefore, I propose to release the records to you in approximately four months. I intend to provide all the records listed on the schedule on this time, with only the redaction of personal information.

The purpose of this letter is to explain that decision. This explanation has the following parts:

1. a schedule of all of the records covered by your request
2. an explanation of the relevant findings concerning the records to which access is denied
3. a statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these three parts in turn.

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1. Schedule of records

A schedule is enclosed with this letter, it shows the documents that the Authority considers relevant to your request. It describes each document and refers to the sections of the FOI Act which apply to prevent release. The schedule also refers you to sections of the detailed explanation given under heading 2 below, which are relevant to the document in question. It also gives you a summary and overview of the decision as a whole.

2. Findings, particulars and reasons for decisions to deny access

The sections of the Act which can apply to deny access to documents are known as its exemption provisions.

Section 29(1) of the FOI Act 2014 states:

"A head may refuse to grant an FOI request –

- (a) If the record concerned contains matter relating to the deliberative process of an FOI body (including opinions, advice, recommendations, and the results of consultations, considered by the body, the head of the body, or a member of the body or the staff of the body for the purpose of those processes), and*
- (b) The granting of the request would in the opinion of the head, be contrary to the public interest"*

The information withheld under this exemption relates to matters currently under deliberation by HIQA. It is my view that the release of this information at this stage in the process would be contrary to the public interest as the information contained is still under consideration and follow-up actions are ongoing. I am satisfied that the release would be harmful to the process and it is, therefore, my view that this information should not be released. I have set out below the factors that I have considered in the public interest.

Public Interest Test

I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- The right of the public to have access to information
- The accountability of administrators and scrutiny of decision making processes

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- The information will make a valuable contribution to the public debate on an issue.

In considering the public interest factors which favour withholding the records I have taken account of the following:

- The release of records would impair future decisions
- Premature release could contaminate the decision making process
- Premature release of records would impair the integrity and viability of the decision making process to a significant or substantial degree without countervailing benefit to the public.

Having considered the above factors, I believe the released of the records at this time would contrary to the public interest.

Section 37 – Personal Information

In relation to all records identified in the schedule, each contains matters where access to the records would involve disclosure of personal/identifiable information within the meaning of Section 37 of the FOI Act.

Section 37(1) provides as follows:

Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual).

Section 37(5) provides that a head may grant the request if the:

“public interest that the request should be granted outweighing the public interest that the right to privacy of the individual to whom the information relates should be upheld.”

Grounds for Decision to Part Grant Request

The records contain the name(s) of individual(s) and or other personal identifiable data and for this reason the Authority is of the view that the exemption applies.

Public Interest Consideration

The Authority accepts that Section 37(1) is subject to Section 37(5) which provides that access to a record may be granted in specified circumstances where the public

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interest would, on balance, be better served by granting than by refusing to grant the request.

I have considered the public interest issues which arise in this case and have taken account of the following factors.

In favour of release:

- the public interest in members of the public exercising their rights under the FOI Acts.

In favour of withholding the records:

- the public interest in protecting the right to privacy;
- the public interest in public bodies being able to perform their functions effectively.

I consider that the public interest in preserving the privacy of the third party involved outweighs the public interest that would be served were the records to be released to you in this instance.

3. Rights of appeal

If you are unhappy with this decision you may appeal it. Please note that a fee applies for an appeal, with the exception of an appeal against the imposition of a €30 fee. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Health Information and Quality Authority, Dublin Regional Office, George's Court, George's Lane, Smithfield, Dublin 7, D07 E98Y or by e-mail to foi@hiqa.ie. Payment should be made by way of electronic transfer. Please contact the FOI Office for further details.

You should make your appeal within 4 weeks, from the date of this notification, where a day is defined as a working day excluding, the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of the Authority.

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4. Publication

It is the policy of HIQA to make decisions on non-personal FOI requests, including this decision letter, available to the public on our website <https://www.hiqa.ie/about-us/freedom-of-information>. Any personal information relating to you, such as your name etc., will be removed from the decision letter before this happens. This decision letter and the schedule will be added to our website approximately one week from today.

Yours sincerely,

Kevin O'Carroll
Standards and Technology Manager

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